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**DEPARTMENT OF INSURANCE**  
**August 29, 2008**  
**Bulletin 164**  
**Small Employers Health Insurance Pooling**

This bulletin is directed to all health insurers issuing health insurance plans as defined by [IC 27-8-15-9](#) and to all small employers of two to 50 eligible employees, as defined by the Healthy Indiana Plan (P.L.218-2007, HEA 1678-2007), SECTION 61. As part of the Healthy Indiana Plan, "the commissioner of the department of insurance and the office of the secretary of family and social services may implement a program to allow two or more small employers to join together to purchase health insurance." After reviewing the experience of other states, the Department's goal for this new program is to provide Hoosier small businesses an additional tool as they seek to acquire or maintain affordable health insurance for their employees.

Traditionally, an association or group of two or more small employers in the same trade or industry, including closely related businesses that provide support, services, or supplies primarily to that trade or industry, could pool to cooperatively purchase health insurance from an admitted insurer or HMO. However, because of certain provisions of Indiana's small employer group health insurance law, insurers could not rate the pool as they would rate a large employer; thus, the pool could not take advantage of the potential benefits of having a large number of insureds.

Effective the date of this bulletin, an admitted insurer or HMO that issues coverage to an insurance purchasing pool (Pool) described herein is not generally subject to Indiana's small employer group law ([IC 27-8-15-1](#) through [IC 27-8-15-34.1](#)) for that Pool if it underwrites and rates the Pool collectively rather than as two or more small employers. However, insurers must continue to comply with the following provisions of the Small employer group law: disclosure of premium rates ([IC 27-8-15-22](#)); maintenance of documentation ([IC 27-8-15-23](#)); submission to the Department ([IC 27-8-15-24](#)); conversion ([IC 27-8-15-31](#)), unless COBRA coverage is required for that small employer; coverage for employees becoming eligible after employer's commencement of health insurance plan ([IC 27-8-15-32](#)); and mandatory coverage to all small employer's eligible employees ([IC 27-8-15-33](#)).

To take advantage of this new exemption, the Pool must purchase health insurance from an admitted carrier. The plan must also be: (1) sponsored by an association engaged in a substantial activity for its members other than sponsorship of the Pool and that has been in existence for a period of not less than two years before engaging in any activities relating to the provision of employee health benefits for its members; or (2) controlled and sponsored directly by participating employers and operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the Pool and is responsible for all operations of the Pool. The trustees must be owners, partners of a partnership, officers, directors, members, or employees of employers in the Pool. The trustees must be equitably divided through the participating employers.

An insurer is not required to provide insurance to any Pool, but an insurer that issues insurance to a Pool must write to all small employers comprising the Pool. However, if a small employer prices insurance as part of a Pool but purchases group health insurance outside of the Pool, the issuing insurer must follow all provisions of Indiana's small group health insurance law, including the guaranteed coverage provisions. Coverage under the Pool must not be offered to persons or groups other than participating employers and, in the event of an association, the sponsoring association. A Pool must make reasonable efforts to offer multiple plan choices to each employer.

To enable the Department to track the use of this program, each insurer issuing coverage to a Pool must report the following information annually with the Department, for the previous calendar year:

- (1) The number of Pools insured.
- (2) The number of small employers in each Pool.
- (3) The number of employees of small employers in each Pool.
- (4) The total number of lives insured through each Pool.
- (5) If the Pool plans to continue coverage with the insurer through the current calendar year.

Reports are due June 30 and should be submitted electronically to the Department, to the attention of the Health Deputy, at [idoi@in.gov](mailto:idoi@in.gov).

Nothing in this bulletin is intended to supersede the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or the Department's MEWA regulation ([760 IAC 1-68](#)). Questions concerning this bulletin should be addressed to Carol Cutter, Chief Deputy Commissioner for Health and Legislative Affairs, who can be reached at (317) 232-5695 or [ccutter@idoi.in.gov](mailto:ccutter@idoi.in.gov), or to Anita Strauss, Health Policy Program Director, at (317) 234-6293 or [an Strauss@idoi.in.gov](mailto:an Strauss@idoi.in.gov).

Indiana Department of Insurance

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James Atterholt, Commissioner

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